

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JEAN GAULDEN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:07CV01637 ERW
	)	
CITY OF DESLOGE, MISSOURI, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter comes before the Court on Defendants City of Desloge, Missouri and St. Francois County, Missouri's Motion to Dismiss Count IV of Plaintiff's Complaint [doc. #44].

In Count III of her initial Complaint [doc. #1], Plaintiff requested relief under a theory of respondeat superior from Defendants City of Desloge, Missouri and St. Francois County, Missouri, for an alleged violation of her civil rights. On March 13, 2008, this Court granted Defendants' Motion to Dismiss Count III of Plaintiff's Complaint [doc. #7]. The Count was dismissed under *Board of the County Commissioners of Bryan County v. Brown*, 520 U.S. 397, 403 (1997), which established that a governmental body cannot be held liable under 42 U.S.C. § 1983 solely on the basis of an employer-employee relationship.

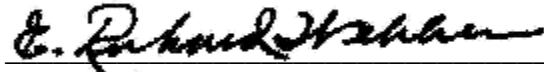
On December 8, 2008, Plaintiffs filed their First Amended Complaint [doc. #38], which included as Count IV the same allegations and assertions that initially appeared in Count III of the original Complaint. As a result, Defendants filed a Motion to Dismiss Count IV and Plaintiff filed a Memorandum in Response, explaining that she was preserving for appeal her claim of 42 U.S.C. § 1983 respondeat superior liability.

Count IV of the First Amended Complaint is identical to Count III of Plaintiff's initial Complaint, which this Court has already dismissed with prejudice. Thus, no additional analysis is necessary for this Court to address the present Motion. The Court adopts the reasoning set forth in its March 13, 2008 Order granting Defendants' Motion to Dismiss Count III [doc. #14] and grants Defendants' Motion to Dismiss Count IV of Plaintiff's Complaint [doc. #44].

Accordingly,

**IT IS HEREBY ORDERED** that Defendants' Motion to Dismiss Count IV of Plaintiff's Complaint is **GRANTED**.

Dated this 6th Day of February, 2009.

A handwritten signature in black ink, appearing to read "E. Richard Webber", is written over a horizontal line.

E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE